

Application No. : **10/773,757**
Filing Date : **February 6, 2004**
Final Office Action : **November 2, 2007**

REMARKS

This paper is responsive to the November 2, 2007 Final Office Action and is further responsive to the November 8, 2007 Office Interview with Examiner Nguyen. Claims 1-8 were originally pending in this application. Claim 1 is amended herein. Claims 2-8 remain as originally filed. Thus, Claims 1-8 remain pending in this application and are presented herein for further consideration by the Examiner in view of the following remarks.

Brief Summary of November 8, 2007 Office Interview

On November 8, 2007, Applicant Carleton Elliott and Applicants' counsel met with Examiner Nguyen in the Examiner's office. Mr. Elliott showed the Examiner a sample of the compression post and also showed the effects on a mudsill of pressure applied to an end post when the compression post is used versus the effects on a mudsill of pressure applied to an end post when the compression post is not used.

During the interview, Applicants' counsel informally discussed a proposed amendment to Claim 1 to clarify the distinguishing characteristics of the compression post. The Examiner agreed to consider the amendment when presented in a formal response to the November 2, 2007 Final Office Action.

Response to Claim Rejections under 35 USC § 102(b)–Wrightman

The Examiner rejects Claims 1-8 under 35 USC § 102 as being anticipated by US Patent No. 6,050,033 to Wrightman. The Examiner asserts that Wrightman discloses every limitation of Claims 1-8.

As discussed during the interview, Applicants respectfully submit that Wrightman does not disclose the claimed compression post. The plate 25 cited by the Examiner does not have dimensions conforming to the bottom surface of an end post. The threaded stud 40f cited by the Examiner extends upwardly from the plate 25 and enters a central bore 36f of a post 16. There is no suggestion in Wrightman that the threaded

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stud 36f has a dimension selected to fit through a hole in a mudsill. Furthermore, there is no suggestion that the threaded stud 40f has a length selected to conform to a thickness of a mudsill such that an exposed end of the threaded stud would rest on a structural support when the compression post is mounted on an end post in a shear wall.

As discussed during the interview, Claim 1 does not include the end post, the mudsill or the structural support as part of the claimed invention. Rather, these conventional parts of a shear wall structure are included in the claims to provide references for the dimensions of the compression post in accordance with *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 806 F.2d 1565, 1 USPQ2d 1091 (Fed. Cir. 1986), as cited in MPEP § 2173.05(b). Claim 1 is amended herein to more clearly define the sizes of the plate and the extended portions in accordance with the dimensions of conventional structural lumber with which the compression post is intended to be used.

Applicants respectfully submit that amended Claim 1 is patentably distinguished over Wrightman. Applicants respectfully request the Examiner to withdraw the rejection of Claim 1 based on Wrightman.

Claims 2-8 depend from Claim 1 and further define the invention defined in Claim 1. Applicants respectfully submit that Claims 2-8 are patentably distinguished over Wrightman for at least the foregoing reasons.

Response to Claim Rejections under 35 USC § 102(b)–Arteau et al.

The Examiner rejects Claims 1–3 under 35 USC § 102 as being anticipated by US Patent No. 4,830,341 to Arteau et al. The Examiner asserts that Arteau discloses every limitation of Claims 1–3.

The plate 40 in Arteau does not have dimensions selected to conform to the bottom surface of an end post of a shear wall. The support member 48 cited by the

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Examiner as the extended portion extends upward from the plate 40 and is sized so that the support member is received by a fence upright placed over the support member. There is no suggestion that the extended portion has a length selected to conform to the thickness of a mudsill.

Applicants respectfully submit that amended Claim 1 is patentably distinguished over Arteau. Applicants respectfully request the Examiner to withdraw the rejection of Claim 1 based on Arteau.

Claims 2 and 3 depend from Claim 1 and further define the invention defined in Claim 1. Applicants respectfully submit that Claims 2 and 3 are patentably distinguished over Arteau for at least the foregoing reasons.

Response to Claim Rejections under 35 USC § 102(b)–Black

The Examiner rejects Claims 1–8 under 35 USC § 102 as being anticipated by US Patent No. 2.625.815 to Black. The Examiner asserts that Black discloses every limitation of Claims 1–3.

The plate 12 in Black does not have dimensions selected to conform to the bottom surface of an end post of a shear wall. Rather, the plate is substantially larger than the bottom surface of the post 16 and would extend beyond the boundaries of any shear wall that included the end post. Furthermore, the shaft 20 is not an extended portion of a compression post that comprises the plate 12. Rather, as stated in column 3 at lines 41-43, the plate 12 has a hole 44 “to freely accommodate the shaft 20.” Accordingly any compressive force from the post 16 would pass through the plate 12 but would not be communicated to the shaft 20. The length of the shaft 20 is not selected to conform to a thickness of a mudsill so that when installed a free end of the shaft would rest on the structural support. Rather, as shown in Figures 2 and 10, the shaft 20 does not contact the structural support.

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In view of the foregoing, Applicants respectfully submit that amended Claim 1 is patentably distinguished over Black. Applicants respectfully request the Examiner to withdraw the rejection of Claim 1 based on Black.

Claims 2-8 depend from Claim 1 and further define the invention defined in Claim 1. Applicants respectfully submit that Claims 2-8 are patentably distinguished over Black for at least the foregoing reasons.

Summary of Response

Applicants have amended Claim 1 to emphasize the structural differences between the invention defined in Claim 1 and the cited references. Applicants respectfully submit that amended Claim 1 and original Claims 2–8 are patentably distinguished over the cited references and are in condition for immediate allowance.

Applicants respectfully request the Examiner to withdraw all objections and rejections to Claims 1–8 and to pass this application to the issue process.

Request for Interview

Applicants respectfully request the Examiner to contact Applicants' undersigned attorney of record to resolve any issues that may remain after the Examiner fully considers this response. If only minor issues remain to be resolved after entry of this response, the Examiner is cordially invited to call the undersigned attorney at 949-433-2849 to resolve any such issues or to allow the undersigned attorney to schedule a personal interview with the Examiner.

Respectfully submitted,

Dated: November 12, 2007

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